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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,825	10/23/2003	John Myatt	2547-0410	5434

7590 09/09/2005  
Harbin King & Klima  
500 Ninth Street SE  
Washington, DC 20003

EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*KL*

**Office Action Summary**

Application No.

10/690,825

Applicant(s)

MYATT ET AL.

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 17-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 30 and 31 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-16 is/are rejected.
- 7) ☒ Claim(s) 5, 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*KL*  
**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 17-29 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the original claims are drawn to an embodiment non-electronic sign attached to an existing vending machine and the newly submitted claims are drawn to electronic sign (sign with specifically electrical element or circuitry) attached to an existing vending machine.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 17-29 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7, 8, 9-16 rejected under 35 U.S.C. 102(b) as being anticipated by Chirnomas, U. S. Patent 2004/0128889.

With respect to claim 1, 7, 8, 14-16, Chirnomas teaches quick change display graphic comprising a sign member 410, 510 having a front side visible by a customer of the vending machine and a rear side facing the vending machine, the sign being attachable to a front portion of the vending machine and having a plurality transparent window portions 412, 512 through which an item 512 located on the rear side of the sign can be viewed from the front side of the sign, the window portion being spaced apart from a product identification window 19 of a selection panel of the vending machine and having a size greater than a size of the selection panel product identification window; and a holder (panel 516 with slot 518 or pocket (paragraph 0088)) constructed and arranged to be positioned on the rear side of the sign, the holder also constructed and arranged to hold a remote product identifier 520 such that the remote product identifier is viewable from the front side through the window portion of the sign, the remote product identifier also having a size greater than the size of the selection panel product identification window 412.

With respect to claim 2, Chirnomas teaches the holder comprising a backing plate 516 attachable to the rear side of the sign 410 and the remote product identifier 520 is positioned between the sign and the backing plate. (Paragraphs 0086-0088)

With respect to claims 3-4, Chirnomas teaches the holder further comprising a spacing member positionable between the rear side of the sign and the backing plate to space the backing plate away from the rear side and provide a channel for retaining the remote product identifier. The spacing member corresponds to the opposing guide rails and bottom rail that are adhesively attached to the back side of the sheet. (See paragraph 0088).

With respect to claims 9-11, each window has a graphic identifier 514 associated therewith to visually link the product identifier with that window portion with a corresponding graphic identifier associated with one of the product's selection buttons.

With respect to claims 12-13, Chirnomas teaches an advertising window portion 414 separate from the other window portions through which an advertising item located on the rear side of the sign can be viewed from the front side of the sign.

***Allowable Subject Matter***

Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

2. Claims 30-31 are allowed.

***Response to Arguments***

3. Applicant's arguments filed June 24, 2005 have been fully considered but they are not persuasive. The applicant argues that Chirnomas does not teach the holder attached to the rear side of the sign and supported entirely by the sign.

4. The examiner contends that Chirnomas clearly teaches an embodiment wherein "replaceable graphic cards 520 could be held onto holder sheet 516 using any of many other conventional holding means, such as a pocket formed by opposing guide rails and bottom rails that are adhesively attached to the back side of sheet 510". (see paragraph 0088)  
The examiner considers the pocket to correspond to the holder attached to the rear side of the sign 510.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cassandra Davis  
Primary Examiner  
Art Unit 3611

CD  
September 6, 2006